UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.372
15 October 1999

ENGLISH
Original: FRENCH

COMMITTEE AGAINST TORTURE

Twenty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 372nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.372/Add.1.

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GE.99-41416 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Second periodic report of Bulgaria (CAT/C/17/Add.19; HRI/CORE/1/Add.81)

1. At the invitation of the Chairman, Mr. Draganov, Mr. Gantchev, Mr. Steffanov and Mr. Vladimirov (Bulgaria) took places at the Committee table.

2. The CHAIRMAN invited the delegation to introduce the second periodic report of Bulgaria.

3. Mr. DRAGONOV (Bulgaria), stressing his country's commitment to the implementation of the principles set forth in the international human rights instruments, said that the favourable climate that had prevailed in Bulgaria since the 1997 elections had enabled the Government to undertake measures to that end.

4. Bulgaria had withdrawn its reservations to articles 28 and 30 of the Convention against Torture and had made the declarations envisaged under articles 21 and 22. It had also ratified and adopted a number of international instruments which were related to the Convention, among them the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention on Extradition and the Convention relating to the Status of Refugees. It had signed many bilateral agreements on mutual legal assistance and was about to sign others.

5. In the legislative sphere, great efforts had been made to modernize criminal law. First, the death penalty had been abolished. Second, various amendments had been made to the Penal Code. The various amendments relating to torture had aimed to stiffen the punishments applicable to the perpetrators of acts cited in article 4 of the Convention and more effectively to protect individuals from acts of torture. The Penal Procedure Code had also been reviewed and a number of provisions introduced, including one which prohibited the extradition of a person to a country where he ran the risk of being subjected to torture or ill-treatment. Similar provisions appeared in the bilateral extradition agreements entered into by Bulgaria, and the same would hold for all new agreements. It was also planned to improve the penal procedure system so as to guarantee equal rights to all citizens and to bring it into conformity with the provisions of international conventions, in particular with the European Convention on Human Rights. To rectify the lack of provisions on judicial supervision, a draft law had been formulated which would permit only one court to hand down or modify a detention order and to exercise such supervision, inter alia, over the application of procedural decisions. Citizens also had the right to lodge an appeal with a higher court, which was a further guarantee of their rights. Similarly, the Execution of Punishments Act had been amended with a view to strengthening guarantees for the humane treatment both of persons held in pre-trial detention and of those serving sentences. The new Ministry of the Interior Act, along with its attached rules and instructions, was designed to ensure greater respect for the rights, freedoms and dignity of individuals.

6. The efforts undertaken by Bulgaria to combat human rights violations, and in particular torture, were not solely of a legislative character. Special attention was paid to the training of police and government officials, particularly those who came into contact with detainees; training programmes were conducted with the assistance of international organizations. Police interrogation procedures had been reviewed and physical conditions in places of detention had been improved in an effort to bring them into line with international standards. Following an awareness campaign conducted by non-governmental organizations (NGOs) on the theme of the prevention of torture, all complaints of ill-treatment were investigated in depth. If the allegations were substantiated, the official responsible was held accountable for his actions before the law. A number of remedies were available to citizens for the protection of their rights. By virtue of Bulgaria's accession to the European Convention on Human Rights, citizens who were victims of torture could address a complaint to the European Court of Human Rights, which they did not hesitate to do. Some complainants who had won their case had been awarded compensation by the State. The measures taken on behalf of the Roma community with a view to combating displays of intolerance against them were also worthy of note.

7. All those measures, along with many others that had been described in detail in the report, and the goodwill that the Government had shown in cooperating fully with the members of international bodies working to eradicate torture, such as the Committee against Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, both of which had sent missions to the country whose recommendations had been acted upon, demonstrated Bulgaria's concern to implement international human rights standards, especially those set out in the Convention against Torture.

8. The Government of Bulgaria, aware of the task that still lay before it, was convinced that the dialogue with the Committee, and the observations and recommendations resulting therefrom, would assist the country in achieving its goals.

9. Mr. SØRENSEN (Country Rapporteur) commended the Bulgarian delegation on the quality of the report, which complied with the Committee's guidelines. The report had, however, been submitted seven years late, and the third periodic report had been due in June 1996. That was especially regrettable in view of the many developments that had taken place since the change of regime in that country; he hoped that Bulgaria would be able to submit its third periodic report in June 2000, and perhaps even the fourth.

10. The State party had failed to incorporate articles 1 and 4 of the Convention into its legislation, since it contained no definition of torture and since torture did not constitute a criminal offence, as paragraph 9 of the report made clear. Lacking a precise criminal definition of torture and a provision explicitly establishing that acts of torture were subject to appropriate penalties, it was difficult to determine the number of cases that occurred in the country. In addition, the State would be better able to exercise its universal jurisdiction in respect of acts of torture if that practice was a punishable offence under domestic law. Lastly, the argument

that law enforcement personnel, whether police officers or judges, could invoke the Convention was unconvincing, since their knowledge of the criminal law did not necessarily imply familiarity with the terms of the Convention.

11. He therefore urged Bulgaria to respect its obligations under the Convention. On the one hand, it should draft, and incorporate into its legislation, a definition of torture, preferably in keeping with the one contained in article 1 of the Convention: it should state that torture meant severe pain or suffering, phyical or mental, and that such suffering must be intentionally inflicted for a specific purpose and carried out by an agent of the State. On the other hand, Bulgaria should make torture a special criminal offence subject to heavier penalties than an ordinary offence, in view of the odious nature of that practice.

12. Turning to conditions of detention pending trial, he said that, as he had learned from his visit to Bulgaria in 1995 on behalf of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the length of custody was deplorably long. Although, officially, persons arrested remained only briefly in the hands of the police before being turned over to the National Investigative Service, they in fact continued to be detained in police stations, which were not designed for long stays and did not provide proper sanitary conditions or allow detainees to work. It would be useful to know whether Bulgaria was still using dilapidated premises of the National Investigative Service for that purpose, and, if so, how many persons were detained there. Finally, had measures been taken to relieve the deplorable conditions, and in particular the overcrowding, that had prevailed in police station cells in 1995?

13. On the matter of minors and adolescents, discussed in paragraphs 14 to 16 of the report, he observed that a child could be placed in a corrective boarding school on the decision of a court, a prosecutor or a local commission. Was it possible to appeal against the decision of the prosecutor or the commission? He also inquired whether children were taken into care by an impartial individual responsible for protecting them and for ensuring the protection of their rights. He would also like to know whether the new regulations concerning the prohibition on means and methods degrading human dignity, mentioned in paragraph 15, were already in force, or, if not, when they would be. Lastly, paragraph 16 indicated that special attention would be accorded to children who had nobody to look after them, in order to protect them from any form of violence or inhuman treatment. It would be useful to know how and by whom that protection was implemented in practice.

14. Paragraphs 19 to 21 of the report, which dealt with the enforcement of article 3 of the Convention, stated that no one could be returned to a country where he ran the risk of being tortured. The Committee would like to know how that guarantee was implemented in practice and whether it applied to all asylum seekers. The requirement under article 3 brooked no exceptions, even for terrorists or convicted criminals: how did the authorities proceed in such cases?

15. Bulgaria would be better able to exercise its universal jurisdiction in respect of acts of torture if the domestic legislation contained a definition of torture. In that regard, it would be interesting if the delegation could give a specific example of how a foreigner who had committed an act of torture abroad against a non-Bulgarian could be brought to justice in Bulgaria.

16. The information provided regarding article 10 of the Convention was most comprehensive and satisfactory. With regard to paragraph 36 of the report, which in fact concerned not article 10 but article 11, he inquired what entity - judge, NGO or special agency - conducted the periodic reviews discussed at the start of that paragraph, and whether those reviews produced concrete results, such as, for example, a report which could serve as the basis for action. Paragraph 38 indicated that there were currently no plans to set up an independent body to monitor the conditions of detention, arrest or deprivation of liberty, although that was the precise objective of article 11 of the Convention. It was true that external bodies such as the European Committee for the Prevention of Torture and various NGOs undertook investigations, but in practice it would be interesting to know whether those investigations were public, to whom their reports were directed, and who was responsible for follow-up. Paragraph 43 of the report mentioned inspections conducted by the European Committee for the Prevention of Torture. That Committee propounded four fundamental guarantees with regard to custody and detention centres, namely: the obligation to inform the detainee of his rights, his right to inform a third party of his arrest, his right to be assisted by counsel from the beginning of the interrogation, and, lastly, his right to be examined by an independent physician. He would like to know whether those guarantees were applied, and whether they were set out in a statutory or legislative text.

17. The statistics provided in paragraph 50 of the report with regard to article 12 of the Convention were unclear. It seemed that there had been 46 cases of torture between 1991 and 1997, but that 4 persons had died as a result of beatings, a very high proportion. Other figures were cited in paragraph 46, but those seemed to relate to prison staff. In any event, it would be remarkable if only 46 cases of ill-treatment had occurred in 6 years. He would like to know whether those statistics also covered the National Investigative Service, or whether the statistics for that body were separate. Paragraph 47 of the report indicated that some persons had been held in detention after serving out their term, because of the late announcement of sentences: it was important to know how the authorities intended to resolve that startling situation.

18. Paragraph 56 of the report indicated that anyone who was the victim of torture could address a complaint to the European Commission of Human Rights: the Committee against Torture should also have been mentioned in that context, since Bulgaria had made the declaration provided under article 22.

19. With regard to the implementation of article 14 of the Convention, it was worth noting that a well-functioning rehabilitation centre for victims of torture existed in Sofia. Bulgaria should consider commemorating the International Day in Support of Victims of Torture, proclaimed by the United Nations General Assembly, by making a contribution, however token, to

the United Nations Voluntary Fund for Victims of Torture, which provided financial assistance to the Sofia centre; torture victims were always very sensitive to demonstrations of respect and support.

20. Mr. YAKOVLEV (Alternate Country Rapporteur) observed that the State party was making great efforts to implement the Convention, although many problems remained.

21. It had been brought to the Committee's attention that police officers had been found guilty of brutalizing members of the Roma community in order to extract confessions, that some police officers had improperly used firearms against Roma, killing three, and that cases of, inter alia, searches without a warrant and destruction of property, had occurred. Did Bulgaria have laws prohibiting discrimination, bodies for protecting minority populations against discriminatory acts, and independent mechanisms for investigating complaints of police brutality? It was particularly important to know whether there were texts regulating the use of firearms and, more broadly, whether the sensitive matter of the judicious use of force had been considered.

22. Mr. HENRIQUES GASPAR paid tribute to the Bulgarian Government, which had had the political courage to abolish capital punishment despite the difficulty of winning over public opinion. With reference to article 15 of the Convention, paragraph 62 of the report stated that there was no special indication in the Penal Procedure Code that statements made as a result of torture should be accepted as evidence. Would that omission be remedied in the new Penal Procedure Code that was being drafted? It was an important point with many complex ramifications, for a confession obtained by unlawful means could lead to the uncovering of other evidence that should also be deemed inadmissible. The Convention formed an integral part of the legislation of Bulgaria, but that did not exempt the State party from including specific rules on that point in its criminal procedure.

23. Mr. MAVROMMATIS said that, while many difficulties still impeded the implementation of the Convention in Bulgaria, the authorities were clearly doing their best in all good faith to surmount them. With regard to the report, he remarked that paragraph 2 could have mentioned the Convention against Torture alongside the European Convention for the Prevention of Torture.

24. Bulgaria had made praiseworthy efforts to take account of the Committee's recommendations relating to article 2 of the Convention. He would appreciate further clarification of the offence of leading a person to commit suicide, as mentioned in paragraph 8 of the report.

25. The need to incorporate the Convention's definition of torture in Bulgarian domestic legislation could not be overemphasized. Although the Convention had been incorporated in domestic legislation on ratification, it was still desirable to adopt a specific legal provision making torture an offence. The concept was necessary, for example, in order to establish whether or not a risk of torture existed in expulsion cases, and the provisions pertaining to such cases needed to be improved.

26. Lastly, he also expressed surprise at the reference in paragraph 47 of the report to "late announcement of sentences", which suggested that people could be imprisoned without knowing the length of their sentence.

27. The CHAIRMAN agreed with previous speakers that Bulgaria was making sincere efforts to apply international human rights standards in difficult circumstances. He particularly welcomed the abolition of capital punishment.

28. It was becoming increasingly clear that the Committee's work complemented that of the Special Rapporteur on torture. However, the latter stated, in his report for 1998, that he had received no reply from the Bulgarian Government about several specific cases to which he had drawn its attention in 1996 and 1997: would the Government be providing the Special Rapporteur with further information in the near future?

29. Thanking the delegation for its participation, he invited it back to a later meeting to reply to the questions that had been raised.

30. The delegation of Bulgaria withdrew.

The public meeting rose at 11.45 a.m.